

**ELAS**  
The Compliance People



# Navigator

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# Equality Bill targets discrimination

**October 1st sees the first parts of the Equality Act 2010 come into force, and while the new legislation incorporates all existing laws on discrimination to date, there are key areas which will change.**

The Equality Act was passed just before the General Election was called, and so involved some all-party support. Since May 6th, the Government has announced a review of certain aspects of the Act, but generally it will be implemented in stages from 1st October as planned.

As such, all employers need to be aware of the provisions of the Act.

One area which is different from under previous legislation is in relation to disability discrimination, and focuses on the need to make reasonable adjustments.

Under the new Act, the duty to make reasonable adjustments will comprise three elements. The first two relate to where a provision, criterion or practice - or where a physical feature of the premises - puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled.

In such cases, the person to whom the duty applies (such as an employer) must take reasonable steps to avoid the disadvantage. This does not change under the new legislation.

The third requirement, however, currently applies only in respect of premises and goods and services but is to be extended to employment from 1st October 2010.

Under this requirement, employers are bound to take reasonable steps to provide auxiliary aids for disabled people who would be at a substantial disadvantage without them.

In addition, where the provision, criterion or practice, or auxiliary aid relates to the provision of information, the steps which it is reasonable to have to take include ensuring that the information is provided in an accessible format.

Generally a person who is under a duty to make reasonable adjustments is not entitled to pass on the cost of compliance to the disabled person.

**For more information, call ELAS on 0161 785 2000**



## Bringing a smile to stressed out dentists

**Dentists facing a mountain of regulation may be able to relax a little more thanks to a tailored compliance service from ELAS.**

With all practices being forced to prove that they conform to the huge array of relevant business regulations as part of the CQC registration process, ELAS is helping to take the weight off their minds.

Prompted by a surge in demand from dental practices, it has launched a tailored service aimed at protecting dentists from the majority of their standard business regulations, leaving them free to deal with professional requirements such as HTM 01-05 and CQC registration.

Peter Mooney, head of consultancy at ELAS, said: *"Because each dental practice is often its own small business, dentists have to comply with an enormous amount of regulation, from ionising radiation to misuse of drugs and hazardous waste.*

*"That's not to mention the more 'standard' employers' duties such as complying with regulations on health and safety at work, fire safety, working with computer screens and other electrical equipment. The list goes on.*

*"What we have done is design a tailored service specifically for dentists, taking away the worry of compliance and freeing them up to practice."*

As part of the three-year service, each practice receives on-site visits during which accredited consultants assess all areas of the workplace - from car parks and waiting rooms through to labs and consulting rooms - for compliance with an exhaustive list of punitive regulations.

Consultants will then draft practice-specific health and safety policies and risk management reports before returning to both check on compliance and discuss and deliver bespoke training to all levels of staff.

For more information about ELAS's services for dental practices, contact **08450 50 40 60** or email **dentist@employment-law.uk.com**

**You could qualify for a referral fee if your dentist signs up to our new package. Tell them to call 0161 785 2000 for more details**



## Calling time on retirement ages

**On 30th July 2010, the Government announced that the default retirement age, which is currently set at 65, is to be phased out from as early as 6th April 2011 and abolished completely from 1st October 2011, when the statutory retirement procedures will be removed.**

The current situation is that if an employer wishes to retire an employee who has reached the age of 65, then providing they follow the correct procedure, they may do so.

Providing they give staff at least six months' notice, allow them to ask to work beyond their retirement age, meet with anybody who wants to make such a request and finally, give

such workers the right to appeal against any decision, then an employer may still insist on retirement at 65. Where employees have exercised an appeal, employers don't even have to give their reasons for coming to that decision.

This situation will change from 6th April 2011, when it will no longer be possible for employers to use this procedure to retire employees against their will. Indeed there will be transitional arrangements for retirements that have been notified prior to 6th April 2011 and where an employee turns 65 before 1st October 2011.

And from 1st October 2011, subject to the transitional arrangements, the situation changes entirely.



From that date, any employer wishing to retire an older employee would have to follow a fair dismissal procedure. This must be achieved by relying on one of the established reasons for a potentially fair dismissal as set out in the Employment Rights Act 1996, namely conduct, capability, illegality, redundancy or some other substantial reason.

The Government has published a consultation document explaining the proposals to phase out the default retirement age. Responses to the consultation are required by 21st October 2010.

Any employers who wish to have a mandatory retirement age must act now to see whether there is a legitimate business requirement to do so. It appears that any retirement age in existence after 6th April 2011 which cannot be objectively justified may result in claims for unfair dismissal and/or age discrimination. And remember, when it comes to discrimination claims, there is no ceiling on the amount of compensation that can be awarded against an employer.



# Saving Time with Timesafe

Timesafe is an affordable, comprehensive and easy to use Time and Attendance management system.

It's all hosted by ELAS - which means you don't need any costly and complicated IT infrastructure in place to make it work.

Instead, Timesafe is designed to be easy to implement and even easier to use. In fact, all you need to do is set up your specific company work patterns, then start to roll it out and take immediate advantage of all the benefits, such as:

- **Easy set-up and simple to implement**
- **Assign specific work patterns**
- **Tracks clocking-in and clocking-out**
- **Virtual clock**
- **Secure system**
- **Eliminates paperwork to streamline HR processes**
- **Traffic light system provides proactive warning of any overdue activities**
- **Import information into Employersafe**

Visit [www.timesafe.co.uk](http://www.timesafe.co.uk) today for your free 30 day trial

## Employment Law



**British businesses are losing more than £2.6 million a week in lost time due to increasingly lengthy tribunal cases, our calculations estimate.**

Thanks to the recession, managers or business-owners involved in tribunals are suffering more and more stress and distractions as employment tribunals take longer and longer to reach court.

ELAS estimates that the extra delays are equivalent to a six per cent increase on the time lost last year.

Our study comes after the Tribunals Service admitted seeing a sharp rise in the number of cases which fail to even reach court within 6 months of a complaint being accepted.

Peter Mooney, ELAS's head of consultancy, said: "Anyone who has been through the employment tribunal process will know that an impending case takes up a lot of time in management, stress and anxiety for those involved."

"This is even greater for small businesses where the stakes are seen as being much higher."

*"The fact that the Tribunal Service is failing to keep up with the rise in cases caused by the recession means that more and more small and medium sized businesses are being forced to wait for months on end before their case is heard."*

Figures released by the Tribunals Service showed a huge 56 per cent leap in the number of cases accepted during 2008/09.

Most of the rise could be attributed to a jump in the number of multiple cases - cases brought by more than one employee, often pursued with the help of trade union support.

The figures also showed that just 65 per cent of cases now reach a tribunal court within 6 months, compared with 74 per cent the previous year.

Mr Mooney added: "It is no surprise that in a recession, the number of tribunal cases goes up. Even though the Service is disposing of more cases than ever, it is not keeping up with what was an entirely predictable surge in demand."

*'The Tribunals Service is not keeping up with what was an entirely predictable surge in demand.'*

## Employment Law

# Surge in jobs calls raise fears of **Double Dip** recession



**The numbers of small businesses seeking to make staff redundant soared after the Government's emergency budget in June.**

ELAS received more requests for advice on redundancies in the weeks after George Osborne's speech in June than at any other point since early 2009.

Head of consultancy, Peter Mooney, said: *"We have not seen an explosion in calls for advice on any one issue like this since the peak of the recession 18 months ago.*

*"We were already becoming quite concerned by the rising number of enquiries we were receiving before the budget, but there has been a significant rise since then."*

Among the industries worst affected by the fall in business confidence were construction and the independent education sector.

Meanwhile, the Bank of England published data showing that lending to British SMEs had all but dried up, leading to fears for the fragile recovery.

Enquiries about redundancies made to the 24-hour helpline began rising in April after several successive monthly falls.

The volume of related enquiries peaked during the week commencing June 28 - immediately following the emergency budget - but monthly figures remain higher now than at any point since August 2009.

## Payroll

**ELAS might be best known for helping you comply with the various regulations around running a successful business, but that's not all we do.**

For example, we now offer a complete, professional and cost-effective solution to the management and administration of your payroll.

ELAS will perform all payroll-related calculations, including employee wages and deductions, and also carry out all related paperwork. We can even email, print or post out your payslips.

In fact, just let us know your payroll needs and ELAS can have as little or as much input as required, we can also tailor a package specifically for your business

And because we are a leading compliance expert, we'll also make sure you are always up to date with the ever-changing, and increasingly complex, tax regulations.

By absorbing all your responsibilities, we give you total peace of mind and greater control, saving you time and money on employee overheads, administration costs and IT investment.

**To find out more about how outsourcing some or all your payroll costs can benefit your business, call 08450 50 40 60.**

# Taking the pain out of payroll



# National Minimum Wage

**From 1st October 2010, the National Minimum Wage will increase 13p from £5.80 an hour to £5.93 an hour.**

Furthermore, the age from which this rate becomes payable is reduced from 22 to 21.

The rate for workers aged between 18 and 20 will rise from £4.83 an hour to £4.92 an hour.

The rate paid to workers aged below 18 who have ceased to be of compulsory school age increases from £3.57 an hour to £3.64 an hour.

In addition, the regulations provide for a National Minimum Wage at the rate of £2.50 per hour for apprentices who are employed under a contract of apprenticeship or who are engaged under certain Government arrangements in England, Scotland, Wales and Northern Ireland.

Last but not least, the amount permitted to be taken into account where accommodation is provided to the employee rises from £4.51 to £4.61 per day.



## Health & Safety



### Death Fall Costs Construction Firm £30K

An Ireland-based construction firm has been fined £30,000 for the death of a labourer who fell three floors while working on the construction of the Republic's tallest residential block.

The fatal incident happened when the employee stepped onto a plywood sheet on a service void. The void had not been fenced off and no danger warning signs were in place.

The worker fell 10 metres onto a concrete surface and tragically died later in hospital.

### Prosecution for Breach of Fire Safety Regulations

Two major supermarket companies were in court recently for breaches of fire safety regulations.

Both companies were found to have emergency exit doors which were locked and restricted access to fire officers attending their separate premises. Reviews of their fire risk assessments had also lapsed.

In view of these serious breaches the supermarket companies pleaded guilty in court to the charges and were forced to pay individual fines of £95,000 and £210,000.

Both companies said they took safety matters extremely seriously and deeply regretted the unacceptable circumstances. Both confirmed their immediate intentions to urgently review their separate sites in conjunction with the fire authorities and both asked customers to treat these as isolated incidents.

### Failure to follow Safety Procedures causes Amputation

A plastic recycling firm failed to follow basic safety procedures for machine repairs that led to a member of their staff severing two fingers. Failing to repair the machine led to the company being fined £19,347 in penalties and court costs.

The court had heard that the employee had been trying to fix a drying unit when he accidentally touched a fan turning at almost 1500 revs per minute. The blades of the fan seriously injured all of the fingers on the left hand and partially severed two of them; leaving the employee unable to return to work since the accident.

The company were also instructed by the HSE Inspectors to implement a safety procedure for repairing the machine.

## Legislative Calendar

Legislation	In force	Need to know	Applies in	More information
Notification of Conventional Tower Cranes Regulations	06.04.10	Requires information about tower cranes assembled on site from components to be notified to the HSE after installation.	Great Britain	<a href="http://bit.ly/towercranes">http://bit.ly/towercranes</a>
Control of Artificial Optical Radiation at Work Regulations	27.04.10	Enacts EU Directive on protection of workers from risks from lasers and other artificial optical radiation sources.	Great Britain	<a href="http://bit.ly/opticalradiation">http://bit.ly/opticalradiation</a>

## Blunders



**WIN £25**  
M&S vouchers

Health and Safety regulations can be so complicated they can leave even the most dedicated of businesses tangled in red tape.

But quite how businesses can get it this badly wrong is beyond us!

Even our consultants lost count of how many regulations these guys would break by hoisting one fully-laden forklift with another.

If you see a blunder like this, we would love to see it. In fact, we'll even give £25 Marks and Spencer vouchers to the best - or worst! - example sent in each quarter.

**Email your photos to**  
[blunders@employment-law.uk.com](mailto:blunders@employment-law.uk.com)

## Questions & Answers

### Is the Right to Request Time Off to Train still applicable?

**Answer:**

The right to request time off to train was introduced on 6th April 2010, and initially only affected employers with more than 250 employees. As a result, since April, employees at those companies have had the legal right to request time off to carry out relevant training.

At the time, it was planned that this right would be extended to all employers with effect from 6th April 2011. Since the election, however, the Government has announced that this right will be reviewed as part of the aim of reducing the regulatory burden on businesses.

The Government did launch a consultation asking employers, employees and any other interested parties for their opinions on the right to request time off to train.

This consultation, which closed on 15th September 2010, asked whether the right should be repealed, or retained for large organisations as present, or to be extended to small and medium sized organisations as planned from next year. As yet, there is no indication as to exactly when the Government will announce revised plans.

**In the meantime, for further information, please contact the ELAS Helpline**

### We recently got an air conditioning unit for the summer and somebody mentioned that you can catch Legionnaires' Disease from it. Is that true?

**Answer:**

People tend to contract Legionnaires' Disease by inhaling tiny water droplets infected with the bacteria, legionella pneumophila. This bacteria grows in water heated to between 20C and 45C, with a source of nutrients (such as sludge, rust, algae or any other organic matter) and is spread through spores in water droplets - such as those created by cooling towers or spa pools.

That means anything which holds water at temperatures of between 20C and 45C - such as spas, pools and other water tanks - needs maintaining very carefully.

The first step is to carry out a thorough risk assessment, and use this to identify what steps should be taken to prevent the growth and spread of the disease. Such steps will include, but are not limited to, appropriate water treatment, water temperature management, and regular cleaning regimes.

Anybody found to be responsible for an outbreak could end up facing prosecution under health and legislation, which can easily result in six-figure fines, or even be charged with corporate manslaughter, which has a maximum sentence of an unlimited fine and imprisonment.



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